## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS OF THE UNITED STATES, ITS TERRITORIES AND CANADA, LOCAL 16

and

Case 20-CB-090776

**DAVID JURY** 

## ORDER1

The Union's petitions to revoke subpoena ad testificandum A-961252, issued to Steve Lutge, subpoena ad testificandum A-961253, issued to Sandy Coleman, and subpoena duces tecum B-706102, issued to the Union's custodian of records, are denied as untimely. Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations require that a petition to revoke an investigative subpoena must be filed within 5 days after the date of service of the subpoena.<sup>2</sup> The subpoenas here were served on September 23, 2013. Thus, the instant petitions, which were filed October 2, 2013, are untimely and the Union has not substantiated its claim that it was improperly served.

In addition, even assuming that the petitions were timely filed, they are lacking in merit. The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Union

<sup>&</sup>lt;sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>&</sup>lt;sup>2</sup> Sec. 102.31(b) states in relevant part that "[a]ny person served with a subpoena, whether ad testificandum or duces tecum, if he or she does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena, petition in writing to revoke the subpoena. The date of service for purposes of computing the time for filing a petition to revoke shall be the date the subpoena is received."

has failed to establish any other legal basis for revoking the subpoenas. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).<sup>3</sup>

Dated, Washington, D.C., December 11, 2013.

KENT Y. HIROZAWA, MEMBER

HARRY I. JOHNSON, III, MEMBER

NANCY SCHIFFER, MEMBER

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<sup>&</sup>lt;sup>3</sup> In denying the Union's petition to revoke subpoena duces tecum B-706102, we note that if the Union's custodian of records provides sworn testimony that the documents are not within the Union's possession, as defined in the subpoena's Definitions and Instructions at paragraph F, then the Union is not required to produce them.